

**Retro Advisory Committee Meeting**  
**MINUTES**

taken April 12, 2005, at 1:00 p.m.  
at L&I Headquarters in Tumwater

The meeting was called to order at 1:00 p.m. by Frank Romero.

**Introductions**

The Retro Advisory Committee members present were: Frank Romero (chair), Karol Kersh, Mark Shaffer, Linda Harvey, Debbie Sullivan, James Bobst, Ann Jarvis, and Montie Barrigen from the Washington Retail Association attending on behalf of Tammie Hetrick who couldn't attend.

Introductions were made around the room, beginning with the committee, then followed by audience members/attendees.

**Approval of Minutes**

A motion was made and seconded for the approval of the minutes of the January 11, 2005, meeting as submitted. The motion passed (was carried).

**Legislative Update**

Vickie Kennedy, Deputy Assistant Director of Insurance Services (Legislative Affairs) gave the legislative update, speaking about workers' compensation bills that have passed this legislative session and bills that are still alive and may still pass.

Substitute House Bill (SHB) 1856 requires industrial insurance fund audits. The Department already prepares financial statements. This takes it a step further and provides additional details along with reviews by the state auditor of some of our financial information and a report back to the Governor, the Legislature, OFM, L&I, and the Workers' Compensation Advisory Committee.

Substitute House Bill (SHB) 1918 implements components of a recommendation from the 1998 Joint Legislative Audit and Review Committee (JLARC) report. It addresses the prompt reporting of claims to the employers. What this bill will do is require the Department to engage in an educational initiative to make all the parties aware of the importance of promptly reporting your claim to your employer, along with taking a look at whether there's statutory change that we would need in order to run a dual system, both the current reporting through the physician and also initiating a claim through the employer. The Department's also compelled to be more proactive when put on notice that an employer may not have yet been notified by the physician of a claim and taking the action to make sure that the employer is aware, and then also reporting back on the success of those strategies.

Substitute Senate Bill (SSB) 6014. This came out of some of the disaster preparedness that's occurring as a result of the 9/11 disaster.

Both business and labor approached the Department on how to come up with a way for employers primarily in the construction area who participate in the life and rescue phase of a disaster by bringing in their equipment and their expertise to find survivors in that initial 72 hours, and to also protect them from the impact on either their funds or their experience rating if a claim is filed in that time period and the injury resulting from that activity.

What this does is funds those claims through a disaster response account which is primary Federal disaster relief funding and protects both the trust funds and the self-insured employers' account and the State Fund employers' experience rating when they voluntarily participate in that activity.

The three bills, SHB 1856, SHB 1918 and SSB 6014, are yet to be delivered to the Governor and have not been signed by the Governor. There are slight differences between Senate and House versions.

The following bills may still pass this session:

SHB 1310 requires mandatory electronic reporting by self-insured employers.

SHB 1732 allows the Department to adjust benefits for individuals who received reduced either time loss or pension payments because they also get Social Security benefits but then after the claim is closed the Federal agency goes back and reassesses that benefit and decides if there's an overpayment. This bill would allow the Department to go back and also reimburse the worker where that might be appropriate.

Engrossed House Bill (EHB) 1917 addresses rate stability and requires the Department to work with the Workers' Compensation Advisory Committee whenever there are excess funds. A few years ago there were dividends paid back to employers along with rates being held down substantially below what was really needed for the claims coming in the door. What this bill does is requires the Department when that scenario occurs again to discuss what steps to take with the Workers' Compensation Advisory Committee.

EHB 2185 requires the Department to develop rules concerning residence modifications for catastrophically disabled workers. Very, very few claims received each year, about 12 to 14 cases annually. But it is unclear to people how it's decided what modifications to pay for or how a worker accesses that benefit.

SSB 5789 is a bill expanding self-insurance authority to take over many aspects of claims adjudication. That bill still has a lot of work to do and a lot of interaction with the self-insured community and those representing the injured workers of that group. It is not expected to pass this session but is still being discussed and moving along.

SSB 5992 would change how second-injury fund assessments are done for self-insured employers to look at a more experience rated model.

Senate Concurrent Resolution (SCR) 8409 would create a joint select committee to make recommendations back to the Legislature on workers' compensation issues.

Ms. Kennedy spoke at length regarding a 1-page handout entitled "Labor and Industries - Workers' Compensation Budget Impacts." The handout detailed/described the budget element and then whether it was funded in the Governor's budget, the Senate budget or the House floor version.

Ms. Kennedy also mentioned that any bills that are submitted this year in the long session can still be considered next year, but the current list still has the potential of passing during the current legislative session.

## **Employer-Based Units (EBU) Update**

Dave Erickson stated that on February 14th claims managers came to work and found that 25,000 claims had been moved to different case loads. That represents about 40 percent of inventory of claims. Change was made for several reasons, but primarily to stock the case loads of claims managers who had been assigned to new employer-based units, employer-based teams.

Unit "N" has been in existence for several years and was the original employer-based unit. That unit was serving about 100 of the highest premium paying employers all over the state. Director Trause and Bob Malooly committed Mr. Erickson to expanding the concept to include other large employers. So now there are additional teams or units. Region 1 there are now six claims managers in unit "L" serving approximately 200 large employers in Everett, Mount Vernon, Bellingham, Northwest Washington. Region 2 added an entire unit to serve King County in addition to unit "N." In Pierce County, Bremerton, a team in unit "D" has been formed. And in Southwest Washington, another team has been formed, unit "O." There was also created a unit to serve state agencies, so all the state agency claims are managed out of that unit. In Eastern Washington two other teams were formed. Current case loads represent 1,000 policy numbers and about 1,500 account ID's.

Mr. Erickson introduced some people heading up those various units, then some questions were taken.

Art Dalessandro from Washington Employers brought up that this whole shift to employer reps has been a little bit of a concern. Having case loads that have been managed up until the end and then shifting over to a new representative, there's been a new ramp-up time for the new rep to get up to speed on the claims. He asked, "What safeguards have been put in place or what's been done to help minimize turnover?" Under the old system when the Department lost a claims manager, claims were spread out and a single employer's claims were managed by one person. Now if the Department loses a person, the entire case load will go and have that entire ramp-up time.

The answer was that there is no magic bullet to stop turnover yet. It is definitely a concern. Each team has a coverage plan, and each unit handles it differently. It cannot be promised that claims managers won't be leaving, but it was stated that there are a lot of claims managers interested in the assignment so it's not like there will be any trouble replacing people.

John Teague with the AWB asked, "When can we look forward to maybe a unit "R" which would be where retro sponsors could place the majority of their claims if they didn't have the top 100 or 200?" He stated that they had many members that would love to be in such a setting that maybe have 100 or 80 or 50 employees. He stated that something like this was done until about '98 or '99, and that he thinks that perhaps a misstep was made when we stopped doing that as a community, and then stated, "I wonder if we would consider doing that again, especially in light of some of the positive things we've seen already with your employer-based units."

Mr. Erickson responded that he had not heard that discussed but would welcome a proposal. He then further stated that maybe Frank and his team could develop one, but that 'sandy' and "Bob" and the new Director would have to be the ones that are convinced that that's an idea.

Robert Malooly made some comments in response to those things said. Bottom line is that he stated that assigning claim managers beyond the top 1,000 employers just doesn't make sense. and explained/talked of the reasons why.

Bill Pickell was concerned and asked, "What do you do or what kind of commitment is L & I going to make for all those claims that were sent in for closure, for pension, for IME's, for anything before February 14th, and then as February 14th approached and all the promises were made they were going to be worked on to hopefully get them done before April 1st and nothing was done on those claims, and now we've got new folks in there who want to relook at the whole thing, and obviously it's well past that period, how are we going to handle those?"

Discussion was had regarding this question/concern.

## **WISHA Outreach**

Jennifer Jellison appeared and spoke on behalf of Ken Mettler who was unable to attend about the WISHA Outreach and the world of safety.

This is a fairly new program that's directly interested in providing outreach to the employers around the state because it's important to have a direct line of communication with customers and reaching out to small employers who may not have the same resources as larger employers.

Safety and health is really important. It's important for any business, and looking at the costs that are associated with injuries and illness, both directly and indirectly, are an important factor.

Outreach Services' goal is to work cooperatively with premium holders and employers in Washington state to provide timely information to those who are seeking help and who need help and may not know it and to make sure that they receive needed resources so that ultimately an understanding of safety and health is obtained not had before.

What is WISHA? A lot of people think that they're OSHA.

Ms. Jellison detailed some differences and misconceptions and explained in detail a bit about WISHA and what it is and what it does. Outreach Services is here to make sure that employers and businesses know about their services. The bottom line is that a good safety and health program and plan means the prevention of injuries and illnesses that cause direct and indirect costs to one's business. Prevention will reduce workers' comp costs and increase refunds received from retro.

Ms. Jellison then proceeded to give a basic overview of the services that they provide.

First, is consultation. This is one of the easiest ways to make sure that you're compliant with all the regulations in the state. An employer can request a consultation by letter, by phone, or in person at one of the regional service locations, and then a safety and health consultant will come out and analyze the workplace and the safety programs and the accident prevention programs and offer suggestions that may help lower premium costs. There are many good things about consultations: They're free. They're not shared with enforcement staff. There's no obligation to a consultation. You can end at any time. The only things that employers have to do is correct any serious hazards found during a consultation. And

most hazards are pretty small and can be corrected right then. And if they can't, you have a pretty generous and reasonable amount of time to correct those hazards.

WISHA's internet site ([www.LNI.wa.gov/safety](http://www.LNI.wa.gov/safety)) is a very comprehensive site and a wealth of information. Ms. Jellison discussed what's available on this web site.

L & I also provides risk management services which can help you go through your injuries and illnesses and your management of claims after they occur.

The Department has developed and implemented a prevention services model, which is a new way of doing business. There are prevention service coordinators around the state. Outreach Services identifies employers with the highest rates of injuries and illnesses and offers services like risk management, if needed, or safety and health consultation to try to help them reduce injuries and pay less in workers' comp costs and have employees be healthy and not injured. The prevention service coordinator will assess the company's needs and then coordinate the right services.

Ultimately, the goal is to get the right people to the right place at the right time.

Finally, the major goal is to get the word out that these services are out there. There is also a "traveling booth" that goes around the state educating people of their services as well.

## **ORCA Project Update**

Kate Cashman spoke to the group in regards to the ORCA Project and the Claim & Account Center.

The focus of entire project has been improvements in customer service for external customers, not really focused on internal processes so much.

The Claim & Account Center is now available. Spoke of real-time access to LINIIS claim and employer account information. There are over 90 web pages. To the people who have used the previous system, the Workers' Comp File Information system, the launch date of the new system was right before Thanksgiving on November 22, 2004. And then January 28, 2005, the new system was launched to all external customers including injured workers and also to internal staff.

New system has a simple user log-in ID and password that is free. No longer requires a digital certificate used by older system.

The people who can have access to this information in this application include the worker, his or her legal representative, the employer of record, and/or the employer's retro or TPA representative, and the current attending doctor. This coming biennium if funding is received, they're looking at expanding who can have access to the system.

Usage as of March 2005 has increased. Now have over 2,100 registered external users accessing the system and 477 internal customers, for a total of over 2,500. Goal for this biennium was to have 4,000 registered users. Goal should be able to be met with the growth seen in the last couple of months.

Ms. Cashman also spoke of the upcoming ability of customers to getting on-line and completing transactions or submitting information. A definite improvement over mailing, faxing or even phoning back and forth to share information. This method also helps to ensure the accuracy and completeness of data.

Upcoming (June 6, 2005) Claim & Account Center on-line transactions will include:

1. E-Correspondence, not exactly e-mail. Customers want e-mail, but e-mail transactions are not secure. Need to ensure the security of information, so they're using "E-Correspondence."
2. Employer's portion of the accident report form.
3. Allowing workers to update their address.
4. Allowing the employers and workers to update work status.

DeAnna McIntosh then spoke about the new imaging system called LUCI.

LUCI is coming up for implementation May 9th to internal staff at L & I. LUCI stands for Look Up Claim Images. It is web based and will lay the groundwork for the external early adopters pilot project that's now looking to be implemented May 23rd.

LUCI has new features for internal staff to help in claims management such as electronic faxing directly into the imaging system. This should cut down on losing faxes and documents not getting into the claim file.

Other features for internal staff to enjoy: More annotations. It is an "in basket" approach. Better routing.

This lays the groundwork for the external early adopters. If funding is received for next biennium, then this will be expanded to all external customers.

Also, the Claim & Account Center is going to be where the external early adopters and any other external customers would be able to log into the Claim & Account Center and then have an option to get into the imaging system.

The "05-07 budget request is being followed closely, and it's looking very positive. If budget request is approved for next biennium, Internet access to imaged documents would be for all external customers. There would be additional on-line transactions, and expansion to other L & I programs. And also for this next biennium, a great portion of this budget request would be for internal business work flow improvements.

Bottom line, the WISE imaging system is going away, being replaced by the new system.

## **Actuaries" Corner**

Presentation(s) given by Bill Vasek. Why are retro refunds declining? Relative performance between the programs drives the overall retrospectively rated premium level. The better retro does compared to non-retro, you have better level of retro refunds, and you have a lower retrospectively rated premium

level. Not only is relative performance important between retro and non-retro, but the relative performance of an entity that's going to get a retro refund, the relative performance within the retro program is also important. This determines how big a retro refund's going to be as a participant.

The Performance Adjustment Factor which is part of the Loss Development Factor is solely used to balance the individual refunds and additional premiums to the overall net refund. That's the design of the Performance Adjustment Factor.

Also, the same Loss Development Factor and Performance Adjustment Factors are applied to the case incurred losses for all the participants in a given enrollment period. Participants with similar loss ratios may have different percentage refunds. And that can happen because participants choose their own level of insurance through the different premiums maximums and the different plans. And also the insurance charges, once you pick the type of insurance you want to have in the retro program, those insurance charges are based on the size of the risk, the maximums and plans.

Mr. Vasek explained a document/chart entitled "Case Incurred Loss Ratios." The case-incurred loss ratios are lower than non-retro loss ratios. But the retro loss ratios are getting closer to the non-retro loss ratios. So the relative performance is getting weaker.

Then he explained a document/chart entitled "Targeted Retro Refund Percentage" which detailed the four quarter moving weighted loss ratio difference between retro and non-retro. The chart showed an overall trend that is sloping downward going back to '97. The last three years shows an even more significant decline in retro refund percentages.

So what's going on? Why are the refunds going down? Why is the relative performance getting weaker?

A new document/chart entitled "Retro vs. Non-Retro Claim Frequency." This showed the time-loss claim frequency, and that the claim frequency for both non-retro and retro is getting better. They're declining.

A new document/chart entitled "Retro vs. Non-Retro Claim Frequency Percent Difference." This chart showed that the retro firms in aggregate are safer than the non-retro firms. The trend is upwards. Difference is increasing. Retro firms are safer. But if they're becoming safer, how come the relative performance is getting weaker?

Mark Shaffer asked a question along the lines of "Are there certain groups doing better than others? Does that have any impact here?"

Mr. Vasek responded that overall, retro is getting safer. But if you were to look at the separate industries, would you see the same thing? And the answer is no, not necessarily. You get a different picture by industry.

Mr. Vasek for the next meeting indicated that he would show how this looks by industry, and it'll be a different picture by industry. Some industries doing much better. Some doing worse.

Now, if the overall performance is getting worse, but retro's getting safer with a better result on the safety side, what's happening? It's got to be on the severity side that retro's getting worse.

Mr. Vasek explained a new document/chart entitled "Average Duration of Timeloss Claims." The duration of the retro claims is getting closer to the duration of the non-retro claims.

Next, he explained another document/chart entitled "Percentage Difference Between Retro and Non-Retro Timeloss Duration." There were some present who wanted Mr. Vasek to break the numbers out by industry, to which Mr. Vasek replied that it was a little harder to do but that he would try and see what he can do.

Why is the retro duration getting closer to the duration for non-retro claims? One of the discoveries has to do with PPD claims.

Mr. Vasek explained a new document/chart entitled "Proportion of Compensable Claims with PPD Awards." It is the PPD claims that have the longest duration of time loss. And these PPD claims, a bunch of them do go off to get pensions too. So they're the ones that stay around in the system the longest time and collect a lot of time loss. So the proportion of time loss claims that are PPD is a pretty important factor here. If you have a higher percentage of PPD claims, you'll have a higher duration.

Retro participants have a smaller percentage of PPD claims than non-retro claims. Hearing-loss claims have been taken out and are not included in the computations but kept-on-salary claims have been included. Retro in the past had lower duration than the non-retro claims.

What's happening here? Those proportions are getting closer and closer together, and they're increasing. And because they're increasing, that's caused the duration to go up. What's happening is retro is becoming more and more like the non-retro groups in terms of the proportion of time loss claims that are PPD claims.

Mr. Vasek explained another document/chart entitled "Difference in PPD Proportion Between Retro and Non-Retro." The retro proportion of PPD to compensable claim counts is increasing faster than for non retro. Part of the reason the proportion of the compensable claims is going up is the number of PPD claims is actually holding steady; it's the number of time loss claims that's dropping.

A new document/chart entitled "Retro vs. Non-Retro Experience Rating Factors." Retro employers have lower mod factors than State Fund, and non-retro employers have higher experience rating factors than State Fund. The total State Fund experience mod looks like it's increasing. This is what we call development. The bottom line here is that basically the mod factors here are somewhat stable.

A new document/chart entitled "Retro vs. Non-Retro Experience Rating Factor Percentage Difference." Retro firms have lower experience rating factors than non-retro firms. The experience rating factor difference is declining but ever so slightly. Basically the difference has been pretty stable for the last ten years.

To summarize what we've discussed so far, the drivers of the overall retro refund are: 1) interest added to the overall net refund, and 2) differences in the undeveloped loss ratios between retro and non-retro. The difference in claim frequency was looked at. Retro claim frequency is improving at a faster rate

than the non-retro claim frequency. And that's good. However, the difference in time-loss duration, that's diminishing. The retro time-loss duration is growing at a faster rate than the non-retro time-loss duration. This is perhaps due to the PPD proportion of compensable claims. The retro proportion is increasing at a much faster rate than the non-retro proportion.

Mr. Vasek then proceeded to talk about the Performance Adjustment Factor. He talked about this at the last meeting but expounded on it a bit more. Performance Adjustment Factors were dropping quite a bit, and for a long period of time they were very, very low. Well below 80 percent. Remember, all the Performance Adjustment Factor does is it adjusts the aggregate refund to hit the targeted net refund amount.

What does the Performance Adjustment Factor do? It reduces the level of the developed losses. Why would one want to reduce the level of the losses in the retro calculation? It has a lot to do with fact that the premium rates was lowered. Premium rates were lowered in order to give back money in the program.

Another document/chart entitled "Performance Adjustment Factor vs. Rate Adequacy." When we lowered the rates, what happened was the State Fund loss ratio increased quite a bit.

Another document/chart entitled "Developed Retro Loss Ratios." PAF's help adjust the aggregate refund to the targeted net refund amounts. This is mostly done by taking out the effect of the adequacy of the rate level. PAF's are used to bring the losses to a level that is appropriately matched with the premiums being charged.

It was sometime in the mid-80's that the Department started using a formula, and it is: Developed Losses equals Case Incurred Losses times Pure Loss Development Factor (by fund) times the Performance Adjustment Factor (PAF).

Conclusions reached: 1) Recent trends in developed losses used for retro Calculations is due to the recent increase in PAF's; 2) the PAF depends on the rate adequacy (or the overall State Fund loss ratio) and the targeted refund percent; and 3) the recent decline in targeted retro refunds is due to the decline in the relative difference between retro and non-retro loss experience.

Mr. Vasek next explained a handout entitled "Composite Claims Report."

After Mr. Vasek completed his presentation(s), an audience member stated, "Every time I hear this, I think I understand less than I did before. You started off by saying "Why are Refunds Recently Declining?" And even after hearing your presentation I have to ask why? Is it because of the PPD's? Is it that simple?"

Mr. Vasek responded, "Well, it's not due to claim frequency."

Again, the audience member asked, "Is that a yes?"

Mr. Vasek responded, "Well, I think it has a lot to do with that, yes. As the proportion of time-loss claims becomes more heavily PPD, the duration goes up. And as the duration goes up, that means your severities are going up. And that's a bad thing. And it's getting worse for the Retro participants compared to the Non-Retro participants. It's increasing at a faster rate."

Russell Frank was next introduced as a new actuary, replacing one who left.

### **Good of the Order**

Frank Romero asked, "Are we providing the kind of information, kind of topics and speakers that you want? Or would you like us to cover something else? What would you like us to cover at our July meeting?"

Some suggestions offered were:

1. To see some of the expanded things we were just talking about from Bill Vasek.
2. More information about the bilingual claims unit in Seattle and how claims are assigned to them and how to utilize them more.
3. How is early return to work working?
4. More ORCA progress and perhaps have people in/from the early implementation of this to come and talk about what their experience has been.
5. Maybe get updated on COHE expansion.

### **Adjournment**

The meeting was adjourned at 3:25 p.m. The next meeting of the committee will be on Tuesday, July 12, 2005.

*(Minutes taken/compiled by Milton Vance, Court Reporter)*